

Office of the Secretary, USDA

§ 24.4

- 24.5 Time for filing notice of appeal.
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Subpart B—Rules of Procedure

- 24.21 Rules of Procedure of Agriculture Board of Contract Appeals—AGBCA.

APPENDIX TO SUBPART B—RULE OF PROCEDURE

AUTHORITY: 5 U.S.C. 301; 15 U.S.C. 714b, 714g, and 714h; 16 U.S.C. 551; 40 U.S.C. 486(c); 41 U.S.C. 601–613.

SOURCE: 60 FR 56207, Nov. 7, 1995, unless otherwise noted.

Subpart A—Organization and Functions

§ 24.1 General.

The Board of Contract Appeals, United States Department of Agriculture (referred to as the “Board”) is an agency of the Department established by the Secretary of Agriculture in accordance with the requirements of the Contract Disputes Act of 1978 (41 U.S.C. 601–613). The provisions of 5 U.S.C. 551–559 (Administrative Procedure Act) are not applicable to proceedings before the Board except for the requirements under 5 U.S.C. 552 respecting public information, agency rules, opinions, orders, and records.

§ 24.2 Composition of the Board.

The Board consists of a Chair, Vice Chair, and other members, all of whom are attorneys at law duly licensed by a state, commonwealth, territory, or the District of Columbia. The Board members are designated Administrative Judges. The Chair shall manage the business and operations of the Board, assign cases to members, and establish panels for cases. Except as provided in Rule 12.2, the Small Claims (Expedited) Procedure, and Rule 12.3, the Accelerated procedure, decisions of the Board will be rendered by a panel of three Administrative Judges, and the decision of the majority of the panel will constitute the decision of the Board. The Vice Chair shall perform the functions of the Chair upon request of the Chair or in the event of absence or unavailability of the Chair to act.

§ 24.3 Presiding Administrative Judge.

The Chair acts as presiding Administrative Judge, or designates a member of the Board or an examiner to so act, in each proceeding. The Presiding Administrative Judge or the examiner has power to:

- (a) Rule upon motions and request;
- (b) Adjourn the hearing from time to time and change the time and place of hearing;
- (c) Administer oaths and affirmations and take affidavits;
- (d) Receive evidence;
- (e) Order the taking of depositions;
- (f) Admit or exclude evidence;
- (g) Hear oral argument on facts or law;
- (h) Consolidate appeals filed by two or more appellants; and
- (i) Do all acts and take all measures necessary for the maintenance of order at the hearing and the efficient conduct of the proceeding.

In cases considered by the Board under § 24.4(b), (c), and (d) the Chair is hereby delegated authority to request subpoenas pursuant to 5 U.S.C. 304.

§ 24.4 Jurisdiction.

(a) *Contract Disputes Act.* Pursuant to the Contract Disputes Act of 1978 (41 U.S.C. 601–613), the Board shall consider and determine appeals from decisions of contracting officers relating to contracts entered into on or after March 1, 1979, and, at the contractor’s election, contracts entered into prior to March 1, 1979, with respect to claims pending before the contracting officer on March 1, 1979, or initiated thereafter. For purposes of this paragraph (a) the term “contracts” shall mean express or implied contracts made by the Department of Agriculture, agencies of the Department, or by any other executive agency when such agency or the Administrator for Federal Procurement Policy has designated the Board to decide the appeal, for:

- (1) The procurement of property, other than real property in being;
 - (2) The procurement of services;
 - (3) The procurement of construction, alternation, repair, or maintenance of real property; or
 - (4) The disposal of personal property.
- (b) *Federal Crop Insurance Corporation.* The Board shall have jurisdiction